

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ALEXANDER LOPEZ and LUCAS  
LOPEZ, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

-against-

YOSSI'S HEIMISHE BAKERY INC.,  
YOSSI'S 18 CORP., YOSSI'S  
BAKERY & SWEET SHOPPE INC.,  
YOSSI'S 14 CORP., YOSSI'S 53  
CORP., YOSSI'S 13 CORP., JACOB  
EAGLE, and ESTER EAGLE,

Defendants.

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*Appearances:*

*For the Plaintiff:*

JOSEPH A. FITAPELLI, ESQ.  
BRIAN S. SCHAFFER, ESQ.  
FRANK J. MAZZAFERRO, ESQ.  
Fitapelli & Schaffer, LLP  
475 Park Avenue, South, 12th Floor  
New York, New York 10016

**BLOCK, Senior District Judge:**

On March 9, 2015, Magistrate Judge Orenstein issued a Report and  
Recommendation ("R&R") recommending that the Court enter a default judgment  
against defendants in the total amount of \$124,190.84. The R&R stated that "[a]ny

objections to this Report and Recommendation must be filed no later than March 26, 2015,” and that “[f]ailure to file objections within this period designating the particular issues to be reviewed waives the right to appeal the district court’s order.” R&R at 24. Copies of the R&R were mailed to the defendants’ last known address on March 10, 2015. To date, no objections have been filed.

Where, as here, clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court, however, will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Therefore, the Court adopts it without *de novo* review. Accordingly, the clerk shall enter

judgment against defendants in the total amount of \$124,190.84, plus postjudgment interest.

**SO ORDERED.**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
March 30, 2015